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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ABBOTT DIABETES CARE INC. and
ABBOTT LABORATORIES,

Plaintiffs/Counterdefendants,

v.

ROCHE DIAGNOSTICS CORP.,
ROCHE DIAGNOSTICS OPERATIONS, INC.
and BAYER HEALTHCARE LLC,

Defendants/Counterplaintiffs.

Case No. C05-03117 MJJ

**DECLARATION OF LYNN C.
TYLER IN SUPPORT OF ROCHE'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT OF NON-
INFRINGEMENT OF U.S. PATENT
NO. 6,592,745**

PUBLIC VERSION

1 I, Lynn C. Tyler, declare and state as follows:

2 1. I am a partner in Barnes & Thornburg LLP, counsel for defendants Roche
3 Diagnostics Corporation and Roche Diagnostics Operations, Inc. (collectively, "Roche") in this
4 action. I make this declaration based upon personal knowledge, unless otherwise noted, and could
5 testify competently to the facts stated herein.
6

7 2. Attached hereto is Exhibit 1, which is a true and accurate copy of U.S. Patent No.
8 6,592,745.

9 3. Attached hereto is Exhibit 2, which is a true and accurate copy of Abbott's Final
10 Infringement Contentions-Roche with Exhibits 1-3 only.

11 4. Attached hereto is Exhibit 3, which is a true and accurate copy of excerpts from
12 the deposition of Allen J. Bard taken October 18, 2007.

13 5. Attached hereto is Exhibit 4, which is a true and accurate copy of excerpts from
14 the deposition of Allen J. Bard taken October 19, 2007.
15

16 6. Attached hereto is Exhibit 5, which is a true and accurate copy of excerpts from
17 the deposition of Nigel Surridge taken May 24, 2007.

18 7. Attached hereto is Exhibit 6, which is a true and accurate copy of an excerpt from
19 a Roche report concerning its Aviva test strip.
20

21 8. Attached hereto is Exhibit 7, which is a true and accurate copy of the expert report
22 of Dr. Allen J. Bard, without exhibits.

23 9. Attached hereto is Exhibit 8, which is a true and accurate copy of the expert report
24 of Dr. Allen J. Bard - Validity of '745 and '164 Patents, without exhibits.

25 10. Attached hereto is Exhibit 9, which is a true and accurate copy of the excerpts
26 from a rough draft of the deposition of Dr. Jay Johnson taken October 23, 2007.
27
28

1 I declare under penalty of perjury that the foregoing is true and correct.

2
3 By:  _____

4
5 Dated: October 25, 2007

**Roche's Motion for Partial Summary Judgment of
Non-Infringement of U.S. Paten No. 6,592,745**

EXHIBIT 1

FILED UNDER SEAL

**Roche's Motion for Partial Summary Judgment of
Non-Infringement of U.S. Patent No. 6,592,745**

EXHIBIT 2

FILED UNDER SEAL

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Non-Infringement of U.S. Patent No. 6,592,745**

EXHIBIT 3

FILED UNDER SEAL

**Roche's Motion for Partial Summary Judgment of
Non-Infringement of U.S. Patent No. 6,592,745**

EXHIBIT 4

FILED UNDER SEAL

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Non-Infringement of U.S. Patent No. 6,592,745**

EXHIBIT 5

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EXHIBIT 6

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EXHIBIT 7

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EXHIBIT 8

FILED UNDER SEAL

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EXHIBIT 9

FILED UNDER SEAL